



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** Oxford Place Office Park

**File:** B-234867

**Date:** June 20, 1989

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### **DIGEST**

Protest is dismissed as untimely where it is filed more than 10 working days after the protester became aware of the basis of its protest; notwithstanding protester's assertion that it was unaware of the timeliness and other provisions of the Bid Protest Regulations, the protester is charged with constructive notice of the Regulations through their publication in the Federal Register.

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### **DECISION**

Oxford Place Office Park protests the rejection of its offer under solicitation for offers (SFO) No. R7-65-88 issued by the General Services Administration (GSA) for office space. GSA rejected Oxford's offer because it failed to meet the minimum requirements of the solicitation.

We dismiss the protest.

The solicitation, issued March 9, 1988, required office space of a minimum of 43,900 to a maximum of 48,500 net usable square feet. Under the solicitation approximately 39,700 square feet had to be contiguous in one building while approximately 6,500 square feet could be located in a separate building within one block. Oxford offered approximately 36,790 net usable square feet in one building and 6,200 net usable square feet in another. Thus, according to the agency its main building was 2,910 square feet short of the solicitation requirement. Further, the two buildings provide a total of only 42,990 net usable square feet or 910 net usable square feet less than the minimum requirement. Further, according to the agency, the property is not located within three blocks of moderately priced restaurants as required by the solicitation. By letter of January 12, 1989, Oxford was informed that its offer was rejected for failing to meet the minimum

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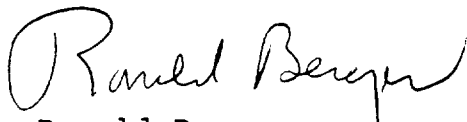
requirements of the solicitation. Oxford by letter dated March 16, filed its protest with our Office on March 20.

The agency argues that the protest was untimely filed. We agree. Our Bid Protest Regulations provide that a protest must be filed--received in our Office--within 10 working days after the basis of the protest is known or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (1988). Oxford was informed that its offer was rejected by letter dated January 16. As Oxford's protest was not filed with our Office until March 20, more than 2 months after it learned of the rejection of its offer, the protest is untimely.<sup>1/</sup>

Oxford states that it protested when it did because it was unaware of our Regulations until March 1989. According to Oxford, its protest was filed immediately upon being informed of the procedures and timing involved. A protester's lack of actual knowledge of our Regulations does not, however, excuse the untimely filing of a protest. Bio-Temp Scientific, Inc.--Request for Reconsideration, B-231358.2, June 10, 1988, 88-1 CPD ¶ 558. Our Regulations were published in the Federal Register and appear in the Code of Federal Regulations, and protesters are, therefore, charged with constructive notice of their contents as a matter of law. Id.

We do note that, based on the record before us, it appears that Oxford's offer did fail to meet the minimum space requirements of the solicitation, so that rejection of Oxford's proposal was proper.

The protest is dismissed.

  
Ronald Berger  
Associate General Counsel

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<sup>1/</sup> The record shows that the protester did request a debriefing by letter dated February 28. That letter, which was sent more than 1 month after the protester was informed of the rejection of its offer did not in our view constitute diligent pursuit of information needed to form the basis of the protest. See Adrian Supply Co.--Reconsideration; et al., B-227022.3 et al., Feb. 23, 1988, 88-1 CPD ¶ 184. In any event, the reasons for the rejection of the protester's offer were clear from the agency's rejection letter.